

The Gazette of India



PUBLISHED BY AUTHORITY

No. 21] NEW DELHI, SATURDAY, MAY 26, 1956

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 19th May 1956.—

Issue No.	No. and date	Issued by	Subject
150	S.R.O. 1119, dated the 11th May, 1956.	Ministry of Finance	Appointment of date on which the Indian Coinage (Amendment) Act, 1955, shall come into force.
	S.R.O. 1120, dated the 11th May, 1956.	Ditto.	Designation of new coin representing each of the one hundred units into which a rupee is divided as a 'Naya Paisa'.
	S.R.O. 1121, dated the 11th May, 1956.	Ditto.	Denominations, dimensions designs and composition of new coins to be coined hereafter.
	S.R.O. 1122, dated the 11th May, 1956.	Ditto.	The standard weight of new coins.
151	S.R.O. 1123, dated the 21st April, 1956.	Election Commission, India.	Election Petition No. 28 of 1954.
152	S.R.O. 1124, dated the 14th May, 1956.	Ministry of Home Affairs.	Amendments made in the Indian Administrative Service (Recruitment) Rules, 1954.
	S.R.O. 1125, dated the 14th May, 1956.	Ditto.	Amendment made in the Indian Police Service (Recruitment) Rules, 1954.
153	S.R.O. 1126, dated the 15th May, 1956.	Ministry of Finance (Revenue Division)	Exemption of cloth, when exported from the whole of customs duty leviable thereon.
154	S.R.O. 1127, dated the 14th May, 1956	Ministry of Finance	Orders by the Custodian of the Presidency Life Insurance Company Ltd., Bombay.
155	S.R.O. 1184, dated the 17th May, 1956	Ministry of Finance (Revenue Division)	Amendment made in the notification No. 131-Customs, dated the 18th August, 1955.

Issue No.	No. and date	Issued by	Subject
156	S.R.O. 1185, dated the 3rd May, 1956.	Ministry of Information and Broadcasting.	Certification of a film to be of the description specified therein.

Copies of the *Gazettes Extraordinary* mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these *Gazettes*.

PART II—Section 3

Statutory Rules and Orders Issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

ELECTION COMMISSION, INDIA

New Delhi, the 15th May 1956

S.R.O. 1190.—In exercise of the powers conferred by sub-section (1) of Section 13-A of the Representation of the People Act, 1950, as amended by the Representation of the People (Amendment) Act, 1956, the Election Commission hereby nominates, in consultation with the Government of Madhya Pradesh, Shri J. S. Dave, M.A., LL.B., Deputy Secretary to the Government of Madhya Pradesh, Law Department, as the Chief Electoral Officer for that State with effect from the 11th May, 1956.

[No. 154/56.]

By Order,

P. S. SUBRAMANIAN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi-2, the 18th May 1956

S.R.O. 1191.—In exercise of the powers conferred by sections 17 and 27 of the Indian Arms Act (XI of 1878), the Central Government hereby makes the following further amendment in the Indian Arms Rules, namely:—

In Schedule VII to the said Rules, in the entry in column 1 against clause (a) of item (8), the words

“and the High Commissioner and the Deputy High Commissioners and the Assistant High Commissioners for Pakistan in India” shall be omitted.

[No. F.15/5/56-Police IV.]

C. P. S. MENON, Under Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 15th May 1956

S.R.O. 1192.—In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government hereby appoint the officers specified in column 1 of the table below as officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent.

TABLE

Officers to whom notice should be sent I	Officers whose salaries and allowances are attached 2
Accountant General Central Revenues, New Delhi. Under Secretary, Ministry of External Affairs	Gazetted Officers in the Ministry of External Affairs Non-Gazetted Officers in the Ministry of External Affairs

[No. 2-CP/56.]

S. DUTT, Foreign Secy.

New Delhi-3, the 17th May 1956

S.R.O. 1193.—In pursuance of clause (a) of section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (XLI of 1948), the Central Government hereby makes with effect on and from the 1st June, 1954 the following amendment to the notification of the Government of India in the Ministry of External Affairs, No. 137-Cons. I, dated the 10th April, 1952.

In the said notification, in the Table, after item No. 5, the following item shall be added, namely:—

"6. Visa Officer, Kandy Consul."

[No. 44/CS/56.]

N. V. AGATE, Under Secy.

RESERVE BANK OF INDIA

(Central Office)

Bombay, the 18th May 1956

S.R.O. 1194.—In pursuance of sub-section (1) of section 4 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), the Reserve Bank of India hereby gives general permission to persons other than authorised dealers to buy or borrow from or sell or lend to, or exchange with, any person not being an authorised dealer, any silver coins current in the Tibet region of China and brought or sent into the States in accordance with the notification of the Government of India, in the Ministry of Finance No. S.R.O. 1159 [F.3(84)-E.F.VII/56], dated the 4th May, 1956.

[No. F.E.R.A.143/56-R.B.]

B. RAMA RAU,
Governor.

MINISTRY OF FINANCE (REVENUE DIVISION)

CENTRAL EXCISES

New Delhi, the 19th May 1956

S.R.O. 1195.—In pursuance of the 'Central Excises and Salt Act, 1944 (I of 1944), as in force in India and as applied to the State of Pondicherry, the Central Government hereby rescinds the late Finance Department (Central Revenues) Notification No. 5-Central Excises, dated the 5th May 1945.

[No. 3-CER/56.]

W. SALDANHA, Dy. Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 19th May 1956

S.R.O. 1196.—In exercise of the powers conferred by section 28 of the Public Debt Act, 1944 (XVIII of 1944), the Central Government hereby makes the following amendments in the Public Debt (Compensation Bonds) Rules, 1954, the same having been previously published as required by sub-section (1) of the said section, namely:—

Amendments

In the said rules—

(1) in rule 2—

(a) for clause (6), the following clause shall be substituted, namely:—

“(6) “instalment” means periodical payment of a part of the principal amount as may be determined by the Government or of interest or of both.”;

(b) after clause (12), the following clause shall be inserted, namely:—

“(13) “Stock Certificate” means a stock certificate issued under rule 3.”;

(2) for rule 3, the following rule shall be substituted, namely:—

“3. *Form of instrument issuable as Government security under Section 2(2)(b) of the Act.*—The Government may issue a bond or a stock certificate in Form A or as the case may be Form AA, or as near thereto as circumstances permit. Save as otherwise provided in these rules, a bond or a stock certificate in the appropriate form shall be deemed to be a Government security for all the purposes of the Act.”;

(3) after rule 3, the following rule shall be inserted, namely:—

“3A. In these rules, references to “bonds” shall, unless the subject or the context indicates otherwise, include references to “stock certificates.”;

(4) for rule 4, the following rule shall be substituted, namely:—

“4. *Transfer of bonds and stock certificates.*—The bonds and stock certificates shall be transferable only in the manner specified below:—

(1) A bond in Form A.

(a) it shall be transferable by endorsement and delivery like a promissory note payable to order;

(b) no endorsement of a bond shall be valid unless made by the signature of the holder or his duly constituted attorney or representative inscribed on the back of the bond itself;

(c) no writing on a bond is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount denominated by the bond; and

(d) the treasury or sub-treasury, or any office of the Bank or the Public Debt Office may decline to accept a bond, endorsed in blank for any purpose, unless the endorsement in blank is converted into that in full before presentation.

(2) A stock certificate in form AA.

(a) the stock for which the stock certificate is issued shall be transferable either wholly or in part by execution of an instrument of transfer in Form H;

(b) the transferor shall be deemed to be the holder of the stock to which the transfer relates until the name of the transferee is registered as a holder of the stock by the Public Debt Office.”;

(5) after rule 4, the following rule shall be inserted, namely:—

“4A. *Provision for holding stock by trustees and office holders.*—(1) Stock for which the stock certificate is issued may be held by the holder of an office other than a public office:—

(i) in his personal name described in the books of the Public Debt Office and in the stock certificate as a trustee, whether of a specified trust or without any such qualification, or

(ii) by the name of his office.

(2) The stock certificate referred to in sub-rule (1) may be held by the holder of the office, either alone or jointly with a person or persons holding an office other than a public office.

(3) When stock is held by a person in the name of his office, any document relating to the stock concerned may be executed by the person for the time being holding the office by the name in which the stock is held as if the personal name were so stated.

(4) Where any transfer deed, power of attorney or other document purporting to be executed by a stock holder described in the books of the Public Debt Office as a trustee, or as a holder of an office is produced to the Public Debt Office, the Public Debt Office shall not be concerned to inquire whether the stock holder is entitled under the terms of any trust or document or rules to give any such power or to execute such deed or other document, and may act on the transfer deed, power of attorney or document in the same manner as though the executant is a stock holder and whether the stock holder is or is not described in the transfer deed, power of attorney or document as a trustee or as a holder of an office and whether he does or does not purport to execute the transfer deed, power of attorney or document in his capacity as a trustee or as a holder of the office.

(5) Nothing in these rules shall, as between any trustees or office holders, or as between any trustees or office holders and the beneficiaries under a trust or any document or rules, be deemed to authorise the trustees or office holders to act otherwise than in accordance with the rules of law applying to trust, the terms of the instrument constituting the trust, or the rules governing the association, of which the stock holder is the holder of an office; and neither the Government nor any person holding or acquiring any interest in any stock shall, by reason only of any entry in any register maintained by or on behalf of the Government in relation to any stock or any stock holder, or of anything in any document relating to stock, be affected with notice of any trust or of the fiduciary character of any stock holder or of any fiduciary obligation attaching to the holding of any stock.

(6) The Public Debt Office may, before making any entry in their books describing a person as a trustee of a specified trust, or issuing a stock certificate in his name described as trustee with the specification of the trust, or acting on any document purporting to be executed in pursuance of this rule by a person as being the holder of any office, require the production of the necessary evidence.”;

(6) after rule 5, the following rule shall be inserted, namely:—

“5A. *Payment of interest.*—Interest on stock shall be paid by warrants issued by the Public Debt Office and payable at the local office of the Bank. Such warrants may at the request of the holder of the stock preferred in writing to the Public Debt Office be made payable subject to compliance by the holder with such formalities as the Public Debt Office may require at any agency of the Reserve Bank of India conducting treasury business in the State concerned or at any treasury or sub-treasury within that State.

The presentation of stock certificate shall not be required at the time of payment of interest, but the payee shall acknowledge receipt at the back of the warrant.”;

(7) after rule 6, the following rule shall be inserted, namely:—

“6A. *Procedure when a stock certificate is lost, etc.*—(1) Every application for the issue of a duplicate stock certificate in place of a stock certificate which is alleged to have been lost, stolen, destroyed, mutilated or defaced, either wholly or in part, shall be addressed to the Public Debt Office and shall be accompanied by—

(a) the Post Office registration receipt for the letter containing the stock certificate, if the same was lost in transmission by registered post;

(b) a copy of the police report, if the loss or theft was reported to the police;

(c) an affidavit sworn before a Magistrate testifying that the applicant is the legal holder of the stock certificate and that the stock certificate is neither in his possession nor has it been transferred, pledged or otherwise dealt with by him; and

(d) any portions or fragments which may remain of the lost, stolen, destroyed, mutilated or defaced stock certificate.

(2) The circumstances attending the loss shall be stated in the application.

(3) The Bank shall, if it is satisfied of the loss, theft, destruction, mutilation or defacement of the stock certificate, order the Public Debt Office to issue a duplicate stock certificate in lieu of the original certificate.”;

(8) for rule 8, the following rule shall be substituted, namely:—

“8. *Determination of Title by Vesting Order.*—Notwithstanding anything contained in rule 6 or 6A, the title to a lost, stolen, destroyed, mutilated or defaced bond or stock certificate may be determined by the Bank by its order vesting title thereto.”;

(9) in rule 9, after the word and figure “rule 6”, the word, figure and letter “or 6A” shall be inserted;

(10) for sub-rule (1) of rule 14, the following sub-rule shall be substituted, namely:—

(1) Subject to any general or specific instructions of the Bank, the Public Debt Office may, by its order, on the application of the holder,

(a) renew or consolidate a bond or bonds, provided that the bond or bonds has or have been receipted in Form D or E as the case may be;

(b) renew, sub-divide or consolidate a stock certificate or stock certificates, provided the stock certificate or stock certificates has or have been receipted in Form I, J or K, as the case may be.”;

(11) in sub-rule (1) of rule 15, after the words “or the bond is notified for redemption”, the words “or becomes due for repayment” may be inserted;

(12) after Form A, the following Form shall be inserted, namely:—

“FORM AA

(See Rule 3)

Form of Stock Certificate issued under Rule 3

Inscribed Stock of the

..... per cent. Compensation Bonds of the Government of.....

I hereby certify that..... is the registered Proprietor of..... Rs..... Government Stock of the Compensation Bonds which bear Interest at..... per cent. per annum, payable yearly/half-yearly from.....

Governor, Reserve Bank of India.

Manager,

Reserve Bank of India,
Public Debt Office.

Dated.....”;

(13) after Form G, the following Forms shall be inserted, namely:—

“FORM H.

(See Rule 4)

Form of Transfer

I/We..... do hereby assign and transfer my/our interest or share in the Inscribed Stock of the..... per cent. Compensation Bonds of the Government of..... amounting to Rs..... being the amount/a portion of the stock for Rs..... as specified on the face of this instrument together with the accrued interest thereon unto..... his/her/their executors, administrators or assigns, and

I/We..... do freely accept the above stock transferred to me/us.

As witness our hand the day of One thousand nine hundred and
Signed by the above-named Transferor in the presence of* (Seller).
Signed by the above-named Transferee in the presence of* (Buyer).
Address.

*Signature, Occupation and address of witnesses.

FORM I

(See Rule 14)

Form of Indorsement for renewal of a stock certificate

Received in lieu hereof a renewed stock certificate of the per cent. Compensation Bonds of for Rs. in the name of with interest payable at Treasury.

Signature of the registered holder/duly authorised representative of (name of registered holder)

FORM J

(See Rule 14)

Form of Indorsement for sub-division of a stock certificate

Received in lieu of this stock certificate stock certificates for Rs. respectively of the per cent. Compensation Bonds of with interest payable at Treasury.

Signature of the registered holder/duly authorised representative of (name of registered holder)

FORM K

(See Rule 14)

Form of Indorsement for consolidation of stock certificates

Received in lieu of stock certificates Nos. for Rs. respectively of the per cent. Compensation Bonds of a stock certificate for Rs. of the per cent. Compensation Bonds of with interest payable at Treasury.

Signature of the registered holder/duly authorised representative of (name of registered holder)

[No. F.5(58)-BI/55.]

K. C. DAS, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

PATENTS AND DESIGNS

New Delhi, the 16th May 1956

S.R.O. 1197.—In exercise of the powers conferred by section 72 of the Indian Patents and Designs Act, 1911 (II of 1911), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Commerce and Industry, No. S.R.O. 681, dated the 23rd March, 1955, namely:—

In the said notification, after item (23), the following item shall be added, namely:—

“(24). The Secretary, Councils of the University Colleges of Science and Technology, Calcutta.”

[No. 58(2)-TMP/51.]

J. N. DUTTA, Dy. Secy.

New Delhi, the 18th May 1956

S.R.O. 1198.—In exercise of the powers conferred by section 3 read with sub-section (2) of section 16 of the Essential Commodities Act, 1955 (No. 10 of 1955) the Central Government hereby makes the following further amendment in the Cotton Textiles (Control) Order, 1948, namely:—

In the said Order, in sub-clause (i) of sub-clause (2A) of clause 12, after the word "have been installed" the words "or commenced working" shall be inserted.

[No. 8(3)-CT(A)/55-7.]

New Delhi, the 26th May 1956

S.R.O. 1199.—In exercise of the powers conferred by Section 3, read with sub-section (2) of Section 16 of the Essential Commodities Act, 1955 (No. 10 of 1955), the Central Government hereby makes the following further amendments in the Cotton Textiles (Control) Order, 1948, namely:—

In the said Order, after sub-Clause (4), of clause 12 the following shall be inserted, namely:—

"(5) No person shall acquire or instal any spindle to be worked by power as defined in clause (g) of Section 2 of the Factories Act, 1948 (LXIII of 1948), except with the permission in writing of the Textile Commissioner.

(6) In granting or refusing permission under sub-clause (5), the Textile Commissioner shall have regard to the following matters, namely:

- (a) the requirements of yarn in India;
- (b) the size of the undertaking;
- (c) the nature of the preparatory and other machines already installed in the undertaking;
- (d) the necessity for training persons or rehabilitating persons in the spinning industry.

(7) Any person having in his possession any spindle which he is not entitled to work or cause or permit to be worked in accordance with sub-clause (5) shall forthwith report the fact to the Textile Commissioner and shall take such action as to its sealing or storage as the Textile Commissioner may direct."

[No. 8(3)-CT(A)/55-8.]

V. V. NENE, Under Secy.

New Delhi, the 21st May 1956

S.R.O. 1200.—In exercise of the powers conferred by Clause (b) of sub-section (2) of section 6 of the Forward Contracts (Regulation) Act, 1952 (LXXIV of 1952) read with Article 64 of the Articles of Association of the Spices and Oilsseeds Exchange Limited, Sangli, (hereinafter referred to as Exchange) the Central Government hereby appoints each of the persons specified in column 2 of the table annexed hereto on the Board of Directors of the Exchange to represent interests specified in the corresponding entry in column 3 of the table.

TABLE

Column. 1 S. No.	Column 2 Name	Column 3 Interest represented
1	Shri A.D. Dave, B. Com, A.C.A, I.R.S., Inspecting Officer, Forward Markets Commission, Bombay	Central Government.
2	Shri N.K. Kulkarni, Professor of Economics, Willingdon College, Sangli.	
3	Shri M.K. Gupte, General Manager, The Sangli Bank Limited, Sangli.	
4	Shri Vasantrao G. Patil, Chairman, Agricultural Produce Market Committee, Sangli.	Interests not directly represented through the membership of the Exchange.

[No. F. 30/31/55-I.P. (B).]

P. V. S. SARMA, Dy. Secy.

MINISTRY OF HEALTH

New Delhi-2, the 17th May 1956

S.R.O. 1201.—The following draft of a further amendment in the Drugs Rules, 1945, which the Central Government, after consultation with the Drugs Technical Advisory Board, proposes to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published, as required by the said sections, for the information of persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 20th August, 1956.

2. Any objection or suggestion which may be received from any person with respect to said draft before the date so specified will be considered by the Central Government.

Draft Amendment

At the end of item 9 of Schedule C(1) to the said Rules, the following shall be added, namely:—

“(12) Gramicidin.”

[No. F.1-51/55-D.]

T. V. ANANTANARAYANAN, Under Secy.

New Delhi-2, the 19th May 1956

S.R.O. 1202.—In exercise of the powers conferred by sub-section (2) of section 4 and sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following further amendment to the Prevention of Food Adulteration Rules, 1955, the same having been previously published as required by sub-section (1) of section 23 of the said Act, namely:—

Amendment

For sub-rule (3) of rule 1 of the said Rules, the following sub-rule shall be substituted, namely:—

“(3) The rules other than those contained in Part III—Appendix ‘B’—item A.12—Margarine, Part VI and Part VII shall come into force on the date of their publication in the Official Gazette, the rules contained in Part III—Appendix ‘B’ item A.12—Margarine, shall come into force on the first day of June, 1956 and the rules contained in Part VI and Part VII shall come into force on the first day of October, 1956.”

[No. P.F.A./F.14-35/56-PH.]

J. N. SAKSENA, Dy. Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

PORTS

New Delhi, the 15th May 1956

S.R.O. 1203.—In pursuance of sub-section (3) of section 6 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), the Central Government hereby publishes the following return received from the Municipal Secretary, Bombay Municipal Corporation, namely:—

Return showing the name of the Councillor elected by the Municipal Corporation of Greater Bombay, in accordance with the provisions of the Bombay Port Trust Act, 1879 to be a member of the Board of Trustees of the Port of Bombay in place of Shri Jamnadas K. Kothari, resigned.

Date of election	Name of gentleman elected
7th May 1956	shri Dahyabhai V. Patel

[No. 8-C-PI(44)/56.]
K. NARAYANAN, Under Secy.

(Transport Wing)

New Delhi, the 21th May 1956

S.R.O. 1204.—In exercise of the powers conferred by sub-section (3) of section 1 of the Road Transport Corporations Act, 1950 (64 of 1950), the Central Government hereby appoints the 1st day of June, 1956, as the date on which the said Act shall come into force in the State of Orissa.

[No. 28-T(1)/56.]

A. S. BHATNAGAR, Under Secy.

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 20th May 1956

S.R.O. 1205.—In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government hereby appoints the officer specified in column 1 of the table below as officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent.

TABLE

Officers to whom notice should be sent	Officers whose salaries are attached.
1	2
(1) <i>Ministry of Irrigation and Power.</i>	
Accountant General Central Revenues, New Delhi.	Gazetted Officers in the Ministry of Irrigation and Power.
Under Secretary (Administration) in the Ministry of Irrigation and Power.	Non-Gazetted Officers in the Ministry of Irrigation and Power.
(2) <i>Central Water and Power Commission (Water Wing).</i>	
Accountant General Central Revenues, New Delhi.	Gazetted Officers.
Administrative Officer	Non-Gazetted Officers.
(3) <i>Central Water and Power Commission (Power Wing).</i>	
Accountant General Central Revenues, New Delhi.	Gazetted Officers.
Assistant Administrative Officer	Non-Gazetted Officers.
(4) <i>Office of the Chief Engineer Hirakud Dam Project.</i>	
Financial Adviser and Chief Accounts Officer, Hirakud Dam Project.	Gazetted Officers.
Personal Assistant to the Chief Engineer, Hirakud Dam Project.	Non-Gazetted Officers.
(5) <i>Office of the Secretary, Hirakud Central Board.</i>	
Financial Adviser and Chief Accounts Officer Hirakud Dam Project.	Gazetted Officer.
Secretary, Hirakud Control Board.	Non-Gazetted Officers.

[No. 21 (10)/56-Add. 11.]

R. R. BAWI, Jt. Secy.

MINISTRY OF EDUCATION

New Delhi, the 17th May 1956

S.R.O. 1206.—In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government hereby appoints the officers specified in column 1 of the Table below as officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent.

TABLE

Officers to whom notice should be sent.	Officers whose salaries and allowances are attached.
I	2
1. Accountant General Central Revenues, New Delhi.	Gazetted Officer in the Ministry of Education.
2. Under Secretary (Establishment-2), Ministry of Education.	Non-Gazetted Officers in the Ministry of Education.

[No. F.26-11/56-A.2.]

G. F. LAKHANI, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 17th May 1956

S.R.O. 1207.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the All India Industrial Tribunal (Colliery Disputes), Calcutta, in the matter of an application under section 33A of the said Act from Shri Bistoo Pada Chatterjee of Mundulpur Colliery.

ALL INDIA INDUSTRIAL TRIBUNAL (COLLIERY DISPUTES), CALCUTTA

APPLICATION No. 3 of 1956 u/s. 33A

PRESENT

Shri J. N. Majumdar—Chairman.

Shri S. P. Chopra—Member.

Shri T. N. Mallappa—Member.

PARTIES

Shri Bistoo Pada Chatterjee, Mundulpur Colliery, C/o. Rabin Chatterjee, P.O. Nandi, Distt. Burdwan—Applicant

Versus

Mundulpur Coal Co. Ltd., Mundulpur Colliery, P.O. Nandi, Distt. Burdwan—Opposite Party.

APPEARANCE

Shri Kalyan Roy—For Applicant.

M. E. F. Bloom Field, Manager, Mundulpur Colliery, Mundulpur Coal Co. Ltd.—For Opposite Party.

AWARD

Dated, the 24th day of April, 1956

This is an application under section 33A of the Industrial Disputes Act, by Bistoo Pada Chatterjee who was a tub checker in the respondent colliery. His complaint is that by their letter on the 4th November, 1955 the company charged him for having made a false report of loaded tubs. He replied to the charge by his letter of the 5th November, 1955 explaining the circumstances under which he reported about the excess tubs but without holding any enquiry the respondents by their letters of the 8th and 15th November, 1955 terminated his services.

with effect from the 5th of February, 1956 without obtaining permission of this Tribunal under section 33 of the Act. This was done because he was an active member of the Union and his brother happened to be the leader of the Union.

The respondents' case is that on receipt of a report from the pit in-charge of the colliery that a false report was made by the applicant about loaded tubs, the management made "some enquiry" and thereafter issued a charge sheet. The explanation by the applicant was not satisfactory and it actually amounted to admission of the dishonesty with which he was charged, and in view of the admission there was no need for further enquiry. The respondents deny that there was any intention on their part to victimise the applicant.

Admittedly no permission was taken from this Tribunal as is required under section 33 of the Tribunal Disputes Act, and therefore we are required to go into the merits of the application under section 33A of the Act.

The charges are contained in the letter of the 4th November, 1955 which reads as follows:—

"You were in duty in 1st Relay on 31st October, 1955 in East Section and from your raising report it is found that you have reported a raising of 47 tubs from your Section (34 from Gorakhpur Labour and 13 from Pickminers). The miners Hari and Bhupati say that they have loaded only one tub each on that day, whereas you have shown 2 tubs each against their names. They further alleged that you told them about increasing their tubs and that the extra money should be paid to you. In order to synchronise your fault you have shown 2 tubs excess in tramping as well, 46 as against as per statement of trammer.

Please explain why your services should not be terminated for this dishonesty in over reporting the tubs and putting company to loss."

Your reply to this above should be submitted within 24 hours of receipt of this letter and pending enquiry your services shall remain suspended with immediate effect."

His explanation referred to above is contained in the letter of the 5th of November, 1955 which also runs as follows:—

"In reply to your letter No. MPC/II/55, dated 4th November, 1955, I beg to state that in 1st Relay on 31st October, 1955 I was ill.

The miners Hari and Bhupati told me that there are two extra tubs in the section and they will load it. They wished to load the extra tubs that is why I gave permission to load the said tubs. After I did not see whether they loaded the tub or not. According to their words I submitted my raising reports and thought if they do not load the tubs next day I shall deduct it from the raising report when the Trambers went in the section for tramping the tubs it was about to end the 1st Relay. It is my duty to enquire trambers work and the tubs whether it is actually loaded or not. Due to misunderstanding I gave the trambers report also including extra two empty tubs which was set on the line. Accordingly I handed over the charge to the tub checker of 2nd Relay of East Section.

Due to my illness I came out from the working section a bit earlier. My understanding was if the pick miner do not load the tubs and the tubs were not trammed it will be adjusted next day.

I do not do it intentionally. I do not tell the said two pick miners that the extra two tubs are in the raising report in your name.

This is the fact. I am quite innocent. So I request your honour to judge my case. On my part I am not guilty. My bread is on your hand. If you say that I am guilty I have nothing to say."

The charge against the applicant was based on the statements made by the two miners Hari and Bhupati that they loaded only one tub each on that day whereas in the report two tubs were shown against each of them. They were also alleged to have stated that the applicant told them about increasing the tubs and the extra money should be paid to him. In his explanation the applicant stated that these two miners told him that there are two extra tubs in the section and they wished to load the extra tubs but as he was ill he left the working section earlier believing their statement and gave permission to load the said two tubs and in the circumstances in his raising report he stated that two

tubs were loaded by each. He thought that if they did not load the tubs next day he would deduct it from the raising report the next day. It is difficult to understand how the explanation offered could be interpreted as an admission of dishonesty on the part of the applicant. It is clear that it is on the statement of the miners Hari and Bhupati the guilt or otherwise of the applicant has got to be determined. In the circumstances it was incumbent upon the respondents to hold an enquiry in the presence of the applicant and these two persons should have been called during the enquiry to make their statements in his presence so that the applicant might have had an opportunity to cross-examine them but no such opportunity was given and therefore the enquiry cannot be held to have been a *bona fide* one and the termination of the service under these circumstances was obviously wrong. On the facts of the case an adverse inference regarding the motive of the respondents would not be unreasonable.

We must therefore hold that the dismissal was not justified and the applicant should be reinstated and paid all his wages from the time of dismissal till he reports himself for duty. We direct that he should report himself for duty within 15 days from the date of the publication of this Award.

(Sd.) J. N. MAJUMDAR, *Chairman.*

(Sd.) S. P. CHOPRA, *Member.*

(Sd.) T. N. MALLAPPA, *Member.*

[No. LRIL-55-2(2)/56-I.]

S.R.O. 1208.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the All India Industrial Tribunal (Colliery Disputes), Calcutta, in the matter of an application under section 33A of the said Act from Shri Habu Das of Kankanee Colliery.

ALL INDIA INDUSTRIAL TRIBUNAL (COLLIERY DISPUTES), CALCUTTA

APPLICATION No. 61 of 1955 u/s. 33A of the ACT

PRESENT

Shri J. N. Majumdar—*Chairman.*

Shri S. P. Chopra—*Member.*

Shri T. N. Mallappa—*Member.*

PARTIES

Shri Habu Das, Mechanical Fitter, Kankanee Colliery, C/o. Eastern Coal Co., Colliery Workers Union, P.O. Bhowra, Dt. Manbhum (Bihar)—*Applicant.*

Versus

The Manager, Kankanee Colliery, P.O. Bansjora, Dt. Manbhum (Bihar)—*Opposite Party.*

APPEARANCES

Shri Lalit Burman—*For Applicant.*

Shri K. B. Bose—*For Opponents.*

AWARD

Dated the 24th April, 1956

This is an application under Section 33A of the Industrial Disputes Act, 1947 by Habu Das, Mechanical Fitter. It is alleged by the applicant that he was verbally transferred to a colliery belonging to a Company other than Bhowra Kankanee Collieries Ltd., to which the Kankanee Colliery belongs and that as he objected to the transfer, he was not given work at the colliery where he was working after 31st October, 1955 in spite of repeated verbal petitions culminating in a registered letter sent on the 21st November, 1955 to which a reply was not sent by the management. The applicant further states that he was debarred from work for his trade union activities and that a change in the conditions of service without taking the permission of the Tribunal amounts to a contravention of Section 33 of the Industrial Disputes Act.

The opposite party has replied that the Colliery is not a party to the dispute as name of the company does not appear in the Gazette of India setting out the names of the collieries who are parties to the adjudication, that the applicant

has no case as he wilfully disobeyed a legal order of the management transferring him to another colliery under the same management, and that there can be no question of any contravention of Section 33 of the Industrial Disputes Act.

This opposite party as well as certain other collieries are under the management agency of M/s. Karam Chand Thapar & Bros., and the question has been raised whether the Managing Agent can transfer the employee of one colliery to another colliery under his agency or the power should be exercised only by the company as different from the Managing Agent. It is not necessary to discuss this question at length as on the facts placed before us, we come to the conclusion that the applicant was not given proper order of transfer and sufficient notice to report at the colliery to which he was transferred. The applicant was told about his transfer order verbally and there is no proof that any written order was communicated to the applicant. It is admitted that the distance between Kankane Collieries and the Colliery to which the workman was transferred is 70 miles. If the workman has to shift from one place to another with family and bag and baggage, he naturally requires reasonable time to do so. It also appears when an objection was raised by the workman to his transfer, he was not given an opportunity to explain his case. He was just not allowed to work in the Colliery where he had all along been working and employed and told that he was no longer in the employment of colliery. We do not consider that the management acted properly in this case when it is not denied that the applicant made verbal protests at his transfer and the management would not even care to reply to the petition dated 21st November 1955, the receipt of which is admitted. We are satisfied that there has been a contravention of Section 33 of the Industrial Disputes Act.

In the result, the company is directed to reinstate the workman at the Kankane Colliery within a fortnight from the date of the publication of the Award and pay him back wages as from 1st November, 1955.

(Sd.) J. N. MAJUMDAR, Chairman.

(Sd.) T. N. MALLAPPA, Member.

I agree with the final conclusion. I have, however, expressed my views in my report about the right of the Managing Agents to transfer which may be taken as my views on the subject.

(Sd.) S. P. CHOPRA, Member.

[No. LRII-55-2(2)/56-II.]

S.R.O. 1209.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the All India Industrial Tribunal (Colliery Disputes), Calcutta, in the matter of an application under section 33A of the said Act from Shri K. P. Mitra and Shri Santi Prakash of Putkee Colliery.

ALL INDIA INDUSTRIAL TRIBUNAL (COLLIERY DISPUTES), CALCUTTA

APPLICATION No. 29 of 1955 (u/s. 33-A of the Act)

PRESENT:

Shri J. N. Majumdar—Chairman.

Shri S. P. Chopra, Member.

Shri T. N. Mallappa, Member.

PARTIES

Shri K. P. Mitra, Assistant Despatch Clerk and Shri Santi Prakash, Lateman of Putkee Colliery, P.O. Kasunda, Dt. Manbhum, Bihar—*Applicants*.

Versus

The Management of Putkee Colliery, P.O. Kasunda, Manbhum, Bihar—*Opposite Party*.

APPEARANCES

Shri D. L. Sen Gupta—*Applicants*.

Shri P. Mandal, instructed by Shri A. K. Sarkar with Shri M. L. Pandit—*for the Opposite Party*.

AWARD

Dated, the 24th day of April 1956

This is an application under section 33A of the Industrial Disputes Act, 1947 by two workmen belonging to Putke Colliery. The application is filed under the following circumstances as they appear from the application:

Putke Colliery originally belonged to Messrs. Eastern Coal Co. Ltd. It was purchased along with three others by Messrs. Bhowra Kankane Collieries Ltd. from the Eastern Coal Co. Ltd. and the management was taken over in January 1955. Messrs Karam Chand Thapar & Bros. Ltd., are the Managing Agents of this Company as well as certain other companies with which we are not directly concerned here. It appears that there were certain differences between the workmen of the Putke Colliery and Messrs. Bhowra Kankane Collieries Ltd. over the conditions of service that should govern these workmen. The workmen served a strike notice on the 24th December 1954 but ultimately the differences were amicably settled by means of an agreement under which M/s. Bhowra Kankane Collieries Ltd. agreed to abide by the certified Standing Orders in force. The relevant order with which we are concerned is Standing Order 26 which is as follows:

"26. All workmen are liable to be transferred from one department to another or from one station to another or from one Colliery to another under the same Management provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice is given of such transfer."

Applicant No. 1 was transferred on the 26th July 1955 to Central Sounds Collieries Ltd. under the management of the United Collieries Ltd. of which the Managing Agents are the same M/s. Karam Chand Thapar & Bros. Ltd. Applicant No. 1 did not join and ultimately expressed inability to accept the transfer. He prayed for the withdrawal of the same. M/s. Bhowra Kankane Collieries by their letter dated the 22nd August 1955 directed him to proceed to Central Sounds Colliery immediately and to stop work in the Putke Colliery.

Applicant No. 2 was also by order dated 30th July 1955 transferred from the Putke Colliery to Madhuband Colliery belonging to Jharia and Ranigunge Collieries Ltd. of which the Managing Agents were the same M/s. Karam Chand Thapar & Bros. Ltd. There was some correspondence between the Applicant No. 2 and the Bhowra Kankane Collieries Ltd. and the company by its letter dated 17th August 1955 asked him to report for duty to the Manager of Madhuband Colliery the next day failing which he would render him liable for disciplinary action. Applicant No. 2 was not prepared to accept the transfer order and the company (Bhowra Kankane Colliery) by letter dated 23rd August 1955 asked him to stop his work in the Putke Colliery.

The applicants submit that the transfer is violation of Standing Order 26 already cited and pray for the retention of their services in the Putke Colliery with full wages and amenities for the period starting from the dates when they were told not to work in the Putke Colliery.

The Company filed a written statement in which they quoted a letter from the office of the Tribunal which, when an application under section 33 was preferred by the company, informed the company that the application could not be entertained as its name did not appear in the Reference and submitted that by returning the application the Tribunal had made it clear that the company was not a party to the dispute and that in any event the suspension was *bona fide*.

In the reply to the statement of the company the applicants referred to a further letter from the office of the Tribunal which called upon the company to represent their application under section 33 and submitted that the misinterpretation of the earlier letter from the office was intentional.

To this the company filed a further reply statement in which they refuted the allegations of the applicants about the second letter from the office of the Tribunal and contended that the company was within its right to transfer the workmen from one colliery to another under the same Managing Agency.

The two points that arise for consideration are:

- (1) whether the company is not a party to the dispute; and
- (2) whether the company is within its right in transferring the workmen.

Transfer is an inherent right of the management; but no transfer can be effected where it is in violation of a certified Standing Order relating to transfers.

As for the objection taken by the company that it is not a party to the dispute we are satisfied that there is no substance. The company was asked to re-present its application under Section 33 and in the further reply statement there is no explanation as to the failure on the part of the company to re-present the application when it was called upon by the office to do so. Even otherwise M/s. Bhowra Kankanee Collieries Ltd. has been appearing in the Main Reference through the Indian Mining Association and has taken part in the proceedings. The order of Reference S.R.O. 691, dated 22nd February 1954 refers to the dispute "between the employers in relation to the coal mines specified in Schedule I and their workmen". The stress is, therefore, on the coalmines which still continues to be S1. No. 376 described as "Pootkee, Kasunda, P.O.". What has happened is only a transfer of ownership which does not really affect the issue before us.

As for the point that the company can transfer the workmen to any colliery under the same Managing Agency, it turns upon the interpretation of the word "Management" in Standing Order 26. The company wants to argue that the word "management" would cover the Managing Agents. It is needless to labour the point as there is no doubt that "management" can only refer to the company which is a legal entity and not to their Managing Agents. A single Managing Agent, as we often see, can take up the managements of a large number of companies. But the managing agent gets his power to manage each company from the owner of that company and cannot mix up the affairs of one company with that of others.

Rule 26 referred to above states that all workmen are liable to be transferred from one colliery to another under the same management. This could only mean that the workman can be transferred from one colliery to another under the management of that company, M/s. Bhowra Kankanee Collieries Ltd., whoever its managing agents are and not from one colliery of that company to another colliery of a different company merely because the managements of both the companies are in the hands of the same managing agency.

Under the Industrial Employment (Standing Orders) Act under which Standing Orders are certified, "Employer" means the owner of an industrial establishment and includes any person responsible to be owner for the supervision and control of the industrial establishment. The Managing Agents being responsible to the owner (company) for supervision and control of the establishment cannot do any act which the owner himself is prohibited from doing. In other words if Bhowra Kankanee Collieries Ltd. itself cannot transfer its workmen to some other company which is not under their management, their Managing Agents cannot transfer the workers of the Company to some other Company of which they happen to be Managing Agents.

We are, therefore, satisfied that there is no substance in the contention that the Managing Agents can seek to exercise the power which under the rule is conferred only on the "Management" which can only refer to the company.

In the result we pass an award setting aside the orders of transfer and direct reinstatement of the two workmen with full wages and amenities for the period starting from the dates of their suspension till they join their duty. The workmen will report for duty within a fortnight from the date of the publication of the award. Awarded accordingly.

(Sd.) J. N. MAJUMDAR, *Chairman.*

(Sd.) S. P. CHOPRA, *Member.*

(Sd.) T. N. MALLAPPA, *Member.*

ALL INDIA INDUSTRIAL TRIBUNAL (COLLIERY DISPUTES) CALCUTTA

APPLICATION No. 29 OF 1955 (u/s 33-A of the Act)

Note of dissent by Shri S. P. Chopra, Member

The facts of the case have been clearly set out in the majority award and do not need repetition. Apart from the preliminary point regarding jurisdiction, the main point for consideration is whether the word 'Management' as found in Rule 26 means the company or the Agents to whom the management of the company is entrusted. According to the majority report there can be no difference between the Company and the management. I seem to differ on this interpretation.

The word 'Management' means the organisation that is responsible for the management of the company. A company registered under the Indian Companies Act is a legal entity but has no life. It cannot function its own. Of necessity, therefore, all actions for and on behalf of the company have to be done through some agents. It may be through the Board of Directors, or through the Managing Agents or even a Managing Director or Manager. Under the Indian Companies Act Section 2(9A) a Managing Agent has been defined as a person, firm, or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement and includes any person firm or company occupying such position by whatever name.

As all persons dealing with a company are deemed to have knowledge of the Memorandum of Association and Articles of Association of the Company, the workmen are aware of the fact that the company is being managed by the Managing Agents.

The employment of the workman is a colliery belonging to a company is under a contract the terms of which include the Standing Orders. The Standing Orders are binding both on the company and the workman. One of the clauses of the Standing Orders is Rule 26 which says—

"All workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another under the same Management provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice is given of such transfer."

It has been suggested that the Management cannot do what the company is not entitled to. This position in my opinion is not quite correct. The contract of employment which is governed by the Standing Orders under consideration is a tripartite agreement, between the workman, the company and the management in this case the Managing Agents. If the firm of Managing Agents are Managing another company which has collieries, this other company would have a similar agreement whereby the Managing Agents can transfer a workman from one colliery to another under their management. This they can do in view of the powers vested in them by company on the one hand and the employment contracts (which include the Standing Orders) on the other. There is therefore no conflict between the company and the Management.

The Managing Agency system has a long history in this country which does not need recapitulation. Whether it should continue or not is a different matter. While it is in existence, this system has to be taken notice of. This is an accepted form of agency for management. The firms of Managing Agents are professional experts who have taken upon themselves the responsibility to manage a number of companies. It may be mentioned that the workmen do not necessarily suffer due to the existence of a provision whereby they are transferable from one company to another. In a bigger organisation, there are greater opportunities for experience and promotion. To safeguard against any hardship that may arise on this score, Rule 26 of the Standing Order provides that on a transfer the conditions of service shall not be adversely affected. If by any chance they are, a transfer cannot be made.

Now reverting to the Standing Orders, it is found that a number of clauses contain the word 'company' and not 'Management'. For instance see clauses 11 and 19 as against clauses 21, 22 and 26 of the Standing Orders. If it was the intention that the term 'Management' and the term 'Company' should be synonymous such a distinction would not have been made.

The applicant in paras. 3(d) and (e) has himself mentioned that an attempt was made by means of strike notice to restrain the opposite party from transferring the workmen of the Kankanee Colliery to Collieries under the management of Messrs. K. C. Thapar & Bros. Ltd., but not belonging to Messrs. Bhowra Kankanee Collieries Ltd. In terms of the settlement as given in Annexure 'B' to the settlement, however, this demand was dropped. The conduct of the workmen substantiates the contention of the opposite party.

Since the hearing of this case, another case has been heard the report of which has been signed by me. I have given my views on this subject there and the same should apply here also.

Therefore the Managing Agents were within their rights to transfer a workman from one colliery under their management to another even though the two belonged to two different companies.

Regarding the question whether this Colliery is a party to the dispute I agree with the arguments and conclusions in the main award.

The third point in this case is whether the transfer was *bona fide*. In view of the written statement of the applicant there is no doubt that he was given sufficient opportunities to report himself for duty at the Colliery to which he had been transferred. He had gone out of his way to refrain from reporting for duty.

In the result I am of opinion that the workman has lost his employment by abstaining from reporting for duty and there is no question of the employers having contravened S.33 of the Industrial Disputes Act. The application under S.33-A should, therefore, be dismissed.

(Sd.) S. P. CHOPRA, Member.
[No. LRII-55-2(2)/56-III.]

New Delhi, the 18th May 1956

S.R.O. 1210.—In pursuance of paragraph 3(1) (b) of the Employees Provident Funds Scheme, 1952, the Central Government hereby nominates Shri O. V. Ramadurai, Deputy Secretary to the Government of India in the Ministry of Finance to be a member of the Board of Trustees (Central Board) constituted under the said Scheme in the vacancy caused by the resignation of Shri N. V. Venkataraman and directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 1861, dated the 31st October 1952, namely:—

In the said notification, for the entry “4. Shri N. V. Venkataraman, Deputy Secretary to the Government of India, Ministry of Finance, New Delhi”, the following entry shall be substituted, namely:—

“4. Shri O. V. Ramadurai, Deputy Secretary to the Government of India, Ministry of Finance, New Delhi.”

[No. PF.33(16)/56.]

New Delhi, the 19th May 1956

S.R.O. 1211.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), read with sub-section (3) of section 23A of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the Central Government hereby publishes the following award of the Industrial Tribunal, Lucknow.

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, LUCKNOW
PRESENT

Sri Ilias Ahmad—Chairman.

Misc. CASE No. III-C-314/55 u/s 23.

CGIT-165/55.

Sri Girdhar Gopal Tandon, Cashier Allahabad Bank Ltd., Allahabad—*Applicant.*

Versus

M/s The Allahabad Bank Ltd., 6, Exchange Place, Calcutta—*Opposite party.*

DECISION

Dated the 22nd March 1956

This is an application under section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950.

The applicant was working as a Cashier, Cantonment Branch, Meerut. Then he was transferred and posted as a Cashier-in-Charge City Office, Meerut. At this latter post the applicant was getting Rs. 18 per month as allowance. On the 4th of January, 1953, he was transferred to his first post which carried no allowance. So he has filed this application and alleges that this transfer means an alteration in the conditions of service which has been brought above without the permission of the Honourable Appellate Tribunal and therefore there has been a breach of the provisions of section 22 and he is entitled to the relief claimed. The relief claimed is that the opposite party should be directed to pay all the arrears.

The case of the opposite party is that the application is not entertainable as the applicant is not a party concerned to the appeal mentioned in the application namely Appeal No. III-C 59/53 and that the application is very belated and therefore also is not entertainable. The further case of the opposite party is that the terms and the conditions of the service of the applicant specifically provide for his transfer from one Office or Branch to another, and there were complaints against the applicant and so he was transferred which in no way means alteration in the conditions of the services and thus there has been no breach of section 22. It has also been asserted that the allowance of Rs. 18 was given because the applicant had to do extra work in bringing money every morning and returning the same every evening which extra work is not involved at the post where he has been transferred and so there is no genuine cause for any grievance.

There is on the record a copy of the Judgement of Appeal No. III-C-59/ of 1953 and I have gone through it. This appeal was filed by the opposite party against Sri B. N. Chaturvedi and there in the question was whether Sri B. N. Chaturvedi who had been dismissed should be reinstated or not. The Honourable Appellate Tribunal for very adequate reasons did not allow reinstatement but instead granted compensation. The applicant can by no means be said a party concerned in this appeal. It is therefore clear that he has no right to file this application under section 23 as he is not a party concerned in the appeal.

The applicant was transferred on the 4th of January, 1953, and this application under section 23 was filed in September, 1955, that is more than two years and a half afterwards. It is true that the applicant was having some correspondence. That, however, is no justification for considerably late filing of this application. It may be said that the application has been filed too late to be entertained.

Let us for a moment assume that this application under section 23 is entertainable and see its merits. There is not the least doubt that the conditions of the service of the applicant provide transfer from one Office or Branch to another. So the fact that the applicant has been transferred cannot be questioned as he could be transferred in due course and on the occasion in question was transferred as a result of various complaints against him. His complaint that he has been deprived of Rs. 18 per month can hardly be said to have any substance in it. He was getting Rs. 18 per month evidently for extra work which extra work he would not have to do at the post to which he has been transferred. So the fact that he would not get this extra amount cannot be made a cause of complaint.

For the reasons given above I find no substance in this application under section 23 and consequently it is rejected.

(Sd.) **ILIAS AHMAD, Chairman.**

[No. LR-4(20)/56-I.]

S.R.O. 1212.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), read with sub-section (3) of section 23A of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the Central Government hereby publishes the following award of the Industrial Tribunal, Lucknow.

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, LUCKNOW

PRESENT

Shri Ilias Ahmed—Chairman.

MISC. CASE NO. III-C-49/56 (u/s 23)

CGIT-46/56.

Shri Banwari Lal Mehra, Victimised employee of the Central Bank of India, Ltd., Amritsar, s/o L. Gokhal Chand, Dhab Khatikan, Amritsar.
Applicant.

Versus

**M/s. The Central Bank of India, Ltd., Head Office, Fort, Bombay—
Opponents.**

DECISION

Dated the 24th April, 1956

This is an application under section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950. Notice was sent to the applicant, informing him that the case was fixed for today. That notice has been served. Inspite of this fact

neither the applicant is present nor any one on his behalf. On behalf of the opposite party Shri R. B. Oberoi, Chief Agent, is present. In these circumstances the only course open to me is to dismiss the application for default. The applicant is to bear his own costs and is to pay Rs. 50 as costs to the opposite party. This sum of Rs. 50 includes the sum of Rs. 25 awarded as costs on the last date.

(Sd.) ILLAS AHMAD, Chairman.
[No. LR-4(20)/56-II.]

S.R.O. 1213.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) read with sub-section (3) of section 23A of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the Central Government hereby publishes the following award of the Industrial Tribunal, Lucknow:—

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, LUCKNOW

PRESENT

Shri Illas Ahmed—Chairman.
MISC. CASE No. III-C-117/54 (u/s 23)

CGIT 53/55.

Shri A. N. Bhargava C/o U. P. Bank Employees Union, 28/36, Feelkhana, Kanpur—Applicant.

Versus

M/s. Hindustan Commercial Bank Ltd., Birhana Road, Kanpur—Opponent.

APPEARANCES:

For the applicant—Shri V. N. Shekhri.

For the opponent—Shri K. N. Bhatnagar.

DECISION

Dated the 21st April, 1956

This is an application under section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950. I may point out here that by mistake section 22 is mentioned in the application.

The case of the applicant is that he was Internal Auditor and his services were terminated by retiring him on the 21st of November, 1952, on the allegation that he was 55 years of age but the fact was that he was not 55. More than 4 months before he had submitted his college certificate according to which he was born on the 4th of July 1898, and so should have been 55 on the 4th of July, 1953. The age of retirement is 58 and he was made to retire even before completing 55. He had protested but it proved of no avail. So this application for setting aside of the illegal discharge, and for reinstatement with all the arrears of back salary and allowances.

The case of the opposite party is that the applicant was an officer and his case is not covered by the provision of the Industrial Disputes Act and so his application is not entertainable. The applicant at the time of his appointment furnished his date of birth as 21st of November, 1897. So he was retired on the 21st of November, 1952, after completing 55 years of service. Reliance cannot be placed on the fact that the applicant now gives the date of birth as 4th of July, 1898 as he has been giving different dates of birth at different places, for example it has turned out that in the Imperial Bank, where he was in the service before, he gave his date of birth as 4th of July, 1898. In brief the applicant was made to retire according to the rules which were applicable and so his application should fail.

The applicant was made to retire on the 21st of November, 1952. At that time he was Internal Auditor. He was transferred to this post on the 9th of August, 1951.

The preliminary objection raised on behalf of the opposite party is that when the applicant was made to retire, he was an officer and not a workman and therefore his application is not maintainable. We have to decide this objection first and find out whether or not the application is entertainable. If he was an officer, it is not entertainable, if he was not, it is.

It was contended on behalf of the opposite party that the applicant had directional and supervisory power and so he was an officer. In support of this contention reliance has been placed on the direction given by the applicant to the

Sub-Agent, Hindustan Commercial Bank Ltd., Gorakhpur, and on various leave applications granted by him. The direction is dated the 6th of April, 1951, and applications are dated 30th March, 1951, 30th March, 1951, 2nd April, 1951, 7th February, 1951 and 3rd February 1951. The direction order was given and the leave applications were disposed of by the applicant not as Internal Auditor but before he came to occupy this post. Therefore reliance cannot be placed on them.

It has been held in 1952, II, L.L.J. page 479 that an Inspector is a workman. It was contended on behalf of the applicant that an Auditor is just like an Inspector. This contention has not been supported by any authority. Reliance has been placed also on 1954, I. L.L.J., page 160 in which it was held that a Touring Auditor is a workman. If a Touring Auditor is a workman, by inference it can easily be said that an Internal Auditor is also a workman.

In para. 3 and 4 of his affidavit of the 6th of December, 1955 the applicant has described his duties. He has said that he had no directional or controlling duties. He has also said that his duties were to audit and write our reports and submit them to the Bank which was purely a clerical work. There is no reason for me not to accept these allegations as correct.

For the reasons stated above I would therefore hold that the applicant was not an Officer but only a workman and so his application is entertainable.

The applicant at the time of his appointment in the concern of the opposite party gave his date of birth as 21st of November, 1897, according to which he completed the age of 55 on 21st of November, 1952. More than 4 months before he was made to retire he submitted a certified copy from the entry in his College Register. From this copy it appears that in the College the date of his birth, was recorded as 4th of July, 1898, according to which he completed the age of 55 years on the 4th of July, 1953. Now the question is whether reliance should be placed on the date of birth as given by the applicant when he entered the service of the opposite party or on the date of birth as given in the College Register. I am inclined to the view that reliance should be placed on the latter rather on the former. The former evidently was given off hand. It may be pointed out here that the applicant was previously in the service of the Imperial Bank and there he gave the date of his birth as the 4th of July, 1898. It may be concluded that while giving his date of birth either at the time of appointment in the opposite party's concern or at the time of appointment in the Imperial Bank, the applicant relied only on his memory which could and in all probability was faulty. I would, therefore, hold that reliance can be placed on the date of birth given in the College Register rather on the date of birth given at the time when the applicant was appointed in the concern of the opposite party. So he should have been retired on 4th July, 1953 and not on 21st November, 1952, if he was to be retired at the age of 55. It is, therefore, clear that he was made to retire a few months earlier.

Reliance has been placed on behalf of the applicant on page 514 of the Shastri Award which runs as follows:—

"Agreeing with the directions given by the Sen Tribunal we direct that after the workman has reached the age of 55 years he may be retired after giving him two months' notice in writing in case his efficiency is found by the employer to have been impaired subject to this rule and also subject to any rule under an existing pension fund the workman should not be compelled to retire before he is 55 years old."

It has been contended on behalf of the opposite party that the Shastri Award is dated 26th of March, 1953 and the applicant was retired before this date and so the direction of this award is not applicable to him. It has also been contended that the Sen Award had been declared invalid when the applicant was made to retire and so this award too cannot be made applicable to the case of applicant. I have no reason not to accept these contentions as correct. I may point out here that whichever date of birth is taken to be correct the applicant cannot be reinstated if he was to retire after completing 55 years of age, which is normal date of retirement. No doubt if it is taken that he should be made to retire after 58 than he can be reinstated for a few months but I doubt whether he can be allowed to retire after completing 58 years of age.

I think that the applicant should have been made to retire after completing the age of 55 from the point of view of the date of birth given in the College Register, that is he should have been made to retire on 4th July, 1953, and not on 21st November, 1952. However, he cannot now be reinstated. Had this decision been made before 4th July, 1953, he should have been reinstated.

The question now is what relief can be granted to the applicant. It seems to me proper to award him salary with allowances from 21st November, 1952 to 4th July, 1953, as of this he has been unjustly and unnecessarily deprived.

Accordingly this application is allowed to this extent that the applicant is to be paid his salary with allowances from 21st November, 1952 to 4th July, 1953. The rest of the prayer in this application is disallowed. The applicant is to get Rs. 100 as costs and the opposite party is to bear its own costs.

(Sd.) ILLAS AHMAD, Chairman.

[No. LR-4(20)/56-III.]

R. C. SAKSENA, Under Secy.

New Delhi, the 19th May 1956

S.R.O. 1214.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President hereby entrusts to the State Government of Bihar, with their consent, the functions of the Central Government under the Minimum Wages Act, 1948 (XI of 1948), in so far as these functions relate to review and revision of minimum rates of wages fixed under the said Act for employees employed in mica mines situated within the State of Bihar.

[No. LWI-I-2(1)56.]

A. L. HANNA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi-2, the 16th May 1956

S.R.O. 1215.—In exercise of the powers conferred by sub-rule (3) of rule 9 read with sub-rule (3) of rule 10 of the Cinematograph (Censorship) Rules, 1951, and in supersession of the Notification of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 874, dated the 10th April, 1956, the Central Government hereby re-appoints after consultation with the Central Board of Film Censors the following persons as members of the Advisory Panel of the said Board at Calcutta with effect from the dates indicated against their names:—

1. Prof. Priyaranjan Sen, 1st March, 1956.
2. Shrimati Ayesha Ahmed, 5th March, 1956.

[No. 14/3/1956.]

ORDER

New Delhi-2, the 19th May 1956

S.R.O. 1216.—The Central Government hereby:—

- (a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 3805, dated the 26th December, 1955 and in modification of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 560, dated the 23rd February, 1956, that the Advisory Panel of the Central Board of Film Censors at Calcutta shall consist of 11 members with effect from the 26th May, 1956.
- (b) notifies for general information that the following members of the Advisory Panel of the Central Board of Film Censors at Calcutta

retired under sub-rule (1) of rule 10 of the Cinematograph (Censorship) Rules, 1951, with effect from the dates indicated against each:—

Date of retirement.

1. Shrimati Mira Chaudhuri	..	1-3-1956
2. Shri B. S. Kesvan	..	1-3-1956
3. Shri S. C. Sarkar	..	1-3-1956
4. Shri L. P. Misra	..	1-3-1956
5. Shri B. K. Basu	..	5-3-1956
6. Dr. R. C. Mazumdar	..	1-3-1956

[No. 14/3/56-FC.]

D. KRISHNA AYYAR, Under Secy.

